



nhc

National Heritage Council
SOUTH AFRICA

an agency of the

Department of Sport, Arts and Culture

www.nhc.org.za

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P.O. Box 74097, Lynnwood Ridge South Africa, 0040

PROVISIONING OF LEGAL SERVICES

| | |
|------------------------------------|----------------------------|
| RFQ NUMBER: | RFQ NHC/2024/25/008 |
| RFQ ISSUE DATE: | 2024-04-16 |
| CLOSING DATE AND TIME: | 2024-04-23 @ 11:00am |
| COMPULSORY BRIEFING SESSION | None |

SUPPLIERS ARE REQUESTED TO PLEASE SUBMIT A QUOTATION ON THE COMPANY LETTERHEAD FOR THE FOLLOWING:

| <u>No</u> | <u>Item Description</u> | <u>Quantity</u> | <u>Unit of Measure</u> |
|-----------|-------------------------|-----------------|------------------------|
| 1.1 | LEGAL SERVICES | 1 | Each |

| ITEM DESCRIPTION | DETAILED INFORMATION |
|-------------------------------------|---|
| RFQ VALIDITY PERIOD | 30 days (COMMENCING FROM THE RFQ CLOSING DATE) |
| COMPULSORY REQUIREMENT | <ul style="list-style-type: none"> - Valid current Tax compliance status pin code for verification of tax compliance status with SARS. - Only suppliers registered on the Central Supplier Database (CSD) will be considered. Suppliers must include with their quotation / proposal their Master Registration number as proof of registration on CSD. - Completed and signed Standard Bidding Documents (SBD) forms included with the bid document / RFQ. |
| SUBMISSION OF QUOTES | e-mail to: procurement@nhc.org.za |
| CONTACT PERSON FOR ENQUIRIES | Mr. Tshepo Maake t.maake@nhc.org.za and cc procurement@nhc.org.za |

INTRODUCTION

1. PURPOSE OF THE REQUEST

NHC seeks to invite quotations for the procurement of goods and/or services as stated above.

2. NHC's TERMS AND CONDITIONS OF REQUEST FOR QUOTATION (RFQ)

- 2.1. NHC's conditions of purchase shall apply.
- 2.2. The validity period of the quotations must be clearly stated on the quotation.
- 2.3. Prices quoted shall be in South African Rand and inclusive of VAT as well as any associated costs such as delivery, insurance, taxes, etc.
- 2.4. No price adjustments or amendments will be considered by the NHC after closure of the RFQ.
- 2.5. The supplier accepts full responsibility for the proper execution and fulfilment of the goods or services quoted for.
- 2.6. NHC reserves the right to accept or reject any special terms and conditions that may qualify the goods or services to be provided.
- 2.7. The NHC reserves the right to accept or reject a proposal in whole or in part.
- 2.8. Where the NHC determines that it will be in the best interest of the project to appoint multiple suppliers, the NHC reserves the right to award the RFQ to multiple suppliers by indicating on the purchase order, the items applicable.
- 2.9. Quotations shall be submitted on an official letterhead and duly signed.
- 2.10. Goods or services shall be supplied / rendered upon receipt of an official purchase order from the NHC. No services must be rendered, or goods delivered before an official NHC purchase order or service level agreement (SLA) signed.
- 2.11. The General Conditions of Contract (GCC) issued by National Treasury are applicable.
- 2.12. Only quotations from suppliers that complies with the specifications and indicate the date of delivery or expected date of service delivered, shall be evaluated and considered.
- 2.13. The NHC reserve the right to do due diligence on the quotations.
- 2.14. The NHC reserves the right to benchmark prices quoted.
- 2.15. Late and / or incomplete submissions will not be accepted.
- 2.16. NHC shall pay within 30 days after receipt of an invoice.
- 2.17. All invoices must be submitted to SCM via the email to procurement@nhc.org.za.

3. EVALUATION CRITERIA

All quotations will be evaluated based on compliance with compulsory requirements, compliance with specifications / Terms of Reference and the 80/20 preference point system prescribed by the Preferential Procurement Policy Framework Act 5 of 2000 and its Regulations as amended in 2022, please see SBD 6,1.

The breakdown of the scoring is included in the Standard Bidding Document (SBD) 6.1. Suppliers are required to complete the SBD 6.1 to indicate the points claimed as required.

IMPORTANT: Suppliers to failed to claim points on SBD 6.1 will score zero by default.

Your assistance and co-operation is appreciated.

Kind Regards

Ms. Bongeka Buthelezi
Supply Chain Management
National Heritage Council of South Africa
353 Festival Street
Hatfield
0028
Tel: 012 748-3949
Email: procurement@nhc.org.za

REQUEST FOR SERVICES OF A LAW FIRM TO MANAGE LITIGATION ON BEHALF OF THE NHC

DATE OF SUBMISSION – APRIL 2024

1. BACKGROUND

The institution has a number of litigations emanating from alleged nonpayment in terms of a commercial agreement and labor dispute with a former employee. The dispute with the former employee has been to the CCMA and the outcome was in favor of the former employee. The organization has referred the matter to the Labor Court.

The matters are at an advanced stage and the contract with the law firm that was handling the matters has come to an end the entity need a new law firm to continue handling the matters.

2. DELIVERABLES

The anticipated delivery date is April 2024.

2.1 Specifications

Services of a law firm to manage litigation on behalf of the entity.

Requirements

The service provider should meet the following requirements.

1. An experienced firm of attorneys with at least 8-12 years post incorporation/ establishment. Experience in labour law within public sector with specific expertise in the investigation and chairing of hearings of senior managers/officials and litigation in the Labour Court, Labour Appeal Court, or any appropriate forum. A specific understanding of procurement related legislation, regulatory and compliance framework procurement in the public sector, such as the Public Finance Management Act, 1999, the Preferential Procurement Policy Framework Act, 2000 and regulations, to the extent applicable, and section 217 of the Constitution.

2. Appropriate experience in litigation arising out of contracts at different forums which are but not limited to Magistrate Court, High Court and SCA.
3. The Project Leader must possess right of appearance as a practitioner in the High Court and the relevant certificate from the Legal Practice Council.
4. Copy of CVs of the available resources and experience relevant to legal labour in the sector. - Copies of relevant qualifications of attorneys and candidate attorneys.
5. Provide proof of 8-12 years' experience in handling labour litigation matters relating to senior staff members, procurement related litigation in the public sector and litigation arising out of contract.
6. Provide cv of proposed Project Leader showing 10 years' experience.
7. Write up on the firm's experience in dealing with labour related issues, public procurement-related matters and the understanding of the Public Procurement and Preferential Procurement Act, the regulations, the PFMA and litigation relating to contracts. Also provide a method statement on how the law firm intends to manage these litigations. (This will be used in the evaluation of the tender to ascertain the law firm's experience and capability to do the work).
8. List five similar type of work done and submit appointment letters/completion letters as proof.
9. Provide proof of right of appearance and fidelity fund certificates
10. The hours are capped at 340 hours. The rate is an hourly rate considering the capped hours. The rate should factor in an advocate's fees for working on the matter. The law firm is expected to get the services of a suitably qualified Junior or Senior Junior advocate subject to the approval of the client.

ENQUIRIES

For more information, please send an email to Adv. Tshepo Maake (Company Secretary & Legal Counsel) t.maake@nhc.org.za

BIDDER'S DISCLOSURE

1. PURPOSE OF THE FORM

Any person (natural or juristic) may make an offer or offers in terms of this invitation to bid. In line with the principles of transparency, accountability, impartiality, and ethics as enshrined in the Constitution of the Republic of South Africa and further expressed in various pieces of legislation, it is required for the bidder to make this declaration in respect of the details required hereunder.

Where a person/s are listed in the Register for Tender Defaulters and / or the List of Restricted Suppliers, that person will automatically be disqualified from the bid process.

2. Bidder's declaration

2.1 Is the bidder, or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest¹ in the enterprise, employed by the state?

YES/NO

2.1.1 If so, furnish particulars of the names, individual identity numbers, and, if applicable, state employee numbers of sole proprietor/ directors / trustees / shareholders / members/ partners or any person having a controlling interest in the enterprise, in table below.

| Full Name | Identity Number | Name of State institution |
|------------------|------------------------|----------------------------------|
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |
| | | |

¹ the power, by one person or a group of persons holding the majority of the equity of an enterprise, alternatively, the person/s having the deciding vote or power to influence or to direct the course and decisions of the enterprise.

2.2 Do you, or any person connected with the bidder, have a relationship with any person who is employed by the procuring institution?
YES/NO

2.2.1 If so, furnish particulars:

.....
.....

2.3 Does the bidder or any of its directors / trustees / shareholders / members / partners or any person having a controlling interest in the enterprise have any interest in any other related enterprise whether or not they are bidding for this contract?
YES/NO

2.3.1 If so, furnish particulars:

.....
.....

3 DECLARATION

I, _____ the _____ undersigned,
(name)..... in
submitting the accompanying bid, do hereby make the following statements that
I certify to be true and complete in every respect:

3.1 I have read, and I understand the contents of this disclosure.

3.2 I understand that the accompanying bid will be disqualified if this disclosure is found not to be true and complete in every respect.

3.3 The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement, or arrangement with any competitor. However, communication between partners in a joint venture or consortium² will not be construed as collusive bidding.

² Joint venture or Consortium means an association of persons for the

- 3.4 In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications, prices, including methods, factors or formulas used to calculate prices, market allocation, the intention or decision to submit or not to submit the bid, bidding with the intention not to win the bid and conditions or delivery particulars of the products or services to which this bid invitation relates.
- 3.4 The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.
- 3.5 There have been no consultations, communications, agreements, or arrangements made by the bidder with any official of the procuring institution in relation to this procurement process prior to and during the bidding process except to provide clarification on the bid submitted where so required by the institution; and the bidder was not involved in the drafting of the specifications or terms of reference for this bid.

I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

I CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 1, 2 and 3 ABOVE IS CORRECT.

I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 6 OF PFMA SCM INSTRUCTION 03 OF 2021/22 ON

purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.

PREVENTING AND COMBATING ABUSE IN THE SUPPLY CHAIN MANAGEMENT SYSTEM SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....
Signature Date

.....
Position Name of bidder

PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2022

This preference form must form part of all tenders invited. It contains general information and serves as a claim form for preference points for specific goals.

NB: BEFORE COMPLETING THIS FORM, TENDERERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS AND DIRECTIVES APPLICABLE IN RESPECT OF THE TENDER AND PREFERENTIAL PROCUREMENT REGULATIONS, 2022

1. GENERAL CONDITIONS

1.1 The following preference point systems are applicable to invitations to tender:

- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

1.2 To be completed by the organ of state

(delete whichever is not applicable for this tender).

- a) The applicable preference point system for this tender is the **80/20** preference point system.
- b) The **80/20 preference point system** will be applicable in this tender. The lowest/ highest acceptable tender will be used to determine the accurate system once tenders are received.

1.3 Points for this tender (even in the case of a tender for income-generating contracts) shall be awarded for:

- (a) Price; and
- (b) Specific Goals.

1.4 To be completed by the organ of state:

The maximum points for this tender are allocated as follows:

| | POINTS |
|--|------------|
| PRICE | 80 |
| SPECIFIC GOALS | 20 |
| Total points for Price and SPECIFIC GOALS | 100 |

1.5 Failure on the part of a tenderer to submit proof or documentation required in terms of this tender to claim points for specific goals with the tender, will be interpreted to mean that preference points for specific goals are not claimed.

1.6 The organ of state reserves the right to require of a tenderer, either before a tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

2. DEFINITIONS

- (a) “**tender**” means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;
- (b) “**price**” means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;
- (c) “**rand value**” means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;
- (d) “**tender for income-generating contracts**” means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and
- (e) “**the Act**” means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

3. FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

3.1. POINTS AWARDED FOR PRICE

3.1.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

A maximum of 80 or 90 points is allocated for price on the following basis:

$$Ps = 80 \left(1 - \frac{Pt - P_{min}}{P_{min}} \right) \quad \text{or} \quad Ps = 90 \left(1 - \frac{Pt - P_{min}}{P_{min}} \right)$$

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmin = Price of lowest acceptable tender

3.2. FORMULAE FOR DISPOSAL OR LEASING OF STATE ASSETS AND INCOME GENERATING PROCUREMENT

3.2.1. POINTS AWARDED FOR PRICE

A maximum of 80 or 90 points is allocated for price on the following basis:

$$Ps = 80 \left(1 + \frac{Pt - P_{max}}{P_{max}} \right) \quad \text{or} \quad Ps = 90 \left(1 + \frac{Pt - P_{max}}{P_{max}} \right)$$

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmax = Price of highest acceptable tender

4. POINTS AWARDED FOR SPECIFIC GOALS

- 4.1. In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:
- 4.2. In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—
- (a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
 - (b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,
- then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.

Table 1: Specific goals for the tender and points claimed are indicated per the table below.

(Note to organs of state: Where either the 90/10 or 80/20 preference point system is applicable, corresponding points must also be indicated as such.)

Note to tenderers: The tenderer must indicate how they claim points for each preference point system.)

| The specific goals allocated points in terms of this tender | Number of points allocated (90/10 system) (To be completed by the organ of state) | Number of points allocated (80/20 system) (To be completed by the organ of state) | Number of points claimed. (90/10 system) (To be completed by the tenderer) | Number of points claimed (80/20 system) (To be completed by the tenderer) |
|---|--|--|---|--|
| B-BBEE Compliance Based on Section 10 of the B-BBEE Act (Act 53 of 2003 as amended by Act 46 of 2013) | | 8 | | |
| | Level 1-2 = 4 pts Level 3-4 = 3 pts Level 5-6 = 2 pts Level 7-8 = 1 pt Non-compliant contributor = 0 | Level 1 = 8 pts Level 2 = 7 pts Level 3 = 6 pts Level 4 = 5 pts Level 5 = 4 pts Level 6 = 3 pts Level 7 = 2 pts Level 8-9 = 1 pt Non-compliant contributor = 0 | | |

| The specific goals allocated points in terms of this tender | Number of points allocated (90/10 system) (To be completed by the organ of state) | Number of points allocated (80/20 system) (To be completed by the organ of state) | Number of points claimed. (90/10 system) (To be completed by the tenderer) | Number of points claimed (80/20 system) (To be completed by the tenderer) |
|---|--|--|---|--|
| The promotion of SMME's | | 4 | | |
| The promotion of woman owned enterprises | | 4 | | |
| The promotion of youth owned enterprises | | 4 | | |
| The promotion of people with disabilities | | 0 | | |
| The promotion of enterprises located in rural areas | | 0 | | |
| The promotion of enterprises located in the township | | 0 | | |
| The promotion of co-operatives | | 0 | | |

DECLARATION WITH REGARD TO COMPANY/FIRM

4.3. Name of company/firm.....

4.4. Company registration number:

4.5. TYPE OF COMPANY/ FIRM

- Partnership/Joint Venture / Consortium
- One-person business/sole propriety
- Close corporation
- Public Company
- Personal Liability Company
- (Pty) Limited
- Non-Profit Company
- State Owned Company

[TICK APPLICABLE BOX]

4.6. I, the undersigned, who is duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the specific goals as advised in the tender, qualifies the company/ firm for the preference(s) shown and I acknowledge that:

- i) The information furnished is true and correct.
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form.
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 4.2, the contractor may be required to furnish documentary proof to the satisfaction of the organ of state that the claims are correct.
- iv) If the specific goals have been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the organ of state may, in addition to any other remedy it may have –
 - (a) disqualify the person from the tendering process.
 - (b) recover costs, losses, or damages it has incurred or suffered as a result of that person's conduct.
 - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation.
 - (d) recommend that the tenderer or contractor, its shareholders, and directors, or only the shareholders and directors who acted on a fraudulent basis, be restricted from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
 - (e) forward the matter for criminal prosecution, if deemed necessary.

| |
|---|
| <p>.....</p> <p>SIGNATURE(S) OF TENDERER(S)</p> |
| <p>SURNAME AND NAME:</p> <p>DATE:</p> <p>ADDRESS:</p> <p>.....</p> <p>.....</p> <p>.....</p> |